



ATTACHMENT 6
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CITY OF SUNNYVALE
ADMINISTRATIVE HEARING

MINUTES
Wednesday, July 28, 2004

2004-0477 – Application for a Use Permit on a 7,920 square-foot site to allow a seven-foot high side yard fence without approval from the adjoining neighbor. The property is located at **893 Rattan Terrace** in an R-O/PD (Low Density Residential/Planned Development) Zoning District. (Hidden Valley Condominiums) (APN: 213-56-022) DO

In attendance: Bill Santos, Representing Applicant; Lidia Barouh, Owner; Kathy Fyke, Adjacent Neighbor; Judy Lawrence; Candy Papier; David & Frances Bartholomew; Greg and Susan Arnold; Gerri Caruso, Administrative Hearing Officer; Diana O'Dell, Project Planner; and, Gloria Barron, Recording Secretary.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing. She also announced that anyone wishing to speak on an item would be limited to 4 minutes.

Ms. Caruso announced the subject application.

Diana O'Dell, Project Planner, presented the staff report. She summarized the subject application and recommended approval of the Use Permit subject to the Conditions of Approval recommended by staff.

Ms. Caruso confirmed with staff that the diagram on Attachment 3, Page 1, was consistent with the fence on site. Staff agreed and stated that she also verified the measurements and they appeared to match the diagram.

Ms. Caruso noted that she did a site visit and viewed the fence.

Ms. Caruso opened the public hearing.

Bill Santos, Applicant Representative, stated that he read the staff report. He presented a short summary, from the owner, outlining present issues regarding the fence. Some of the concerns included privacy, security and personal well being. He also noted that in the past the property owner has planted bushes in order to provide privacy but the bushes have been trimmed back, by someone, so severely that they have died. He stated that it was then that the owner built the taller fence adjacent to the existing property line fence. Mr. Santos also stated that the lack of security and privacy has caused the property owner physical nervousness and anxiety which has caused the property owner unacceptable health issues. He then stated that these issues have caused the property owner to sell her property after 20 years.

Kathy Fyke, Adjacent Neighbor, addressed some of the comments made by Mr. Santos. She stated that the bushes died due to lack of sunlight because they were under a large tree. Ms. Fyke submitted pictures for review. She also noted that her neighbor was aware she needed a Use Permit a year ago. Ms. Fyke communicated that that a fence agreement was never signed but an oral agreement stating that if she did not like the design of the fence the neighbor would take the fence down. She noted that the neighbor refuses to take the fence down. Ms. Fyke quoted information from the CC&R's under fences and hedges and stated that the neighbor never got permission from the association to install the fence. She then spoke about the site layout as noted in the report and stated that because their properties are 15 feet lower than the surrounding neighborhood, the amount of sunlight is more restrictive than up on the street level and therefore their light and shadows are different from the surrounding neighborhood. She also stated that the grade is the same on both properties and nothing has ever been elevated. Ms. Fyke submitted a picture showing the fence is over 7 feet high and other pictures showing the fence is not on the property line. She then stated that the Home Owners Association told the neighbor that the fence needed to be removed. Ms. Fyke added that she was just told that she would have 4 minutes to present all her information and asked for additional time to speak.

Ms. Caruso referred to the fence height and asked Ms. Fyke if anything had been raised in the area where she used to have vegetables. Ms. Fyke stated that she had not raised anything. Ms. Fyke felt the fence was put in out of spite and stated that she did not care what the design of the fence was but did not want the fence to be taller than 7 feet. Ms. Fyke stated that she understood that the entire fence was not over 7 feet but stated that there is a portion of the fence that is over seven feet. Ms. Caruso asked Ms. Fyke that if she had additional information to submit for the record to please state what those items were going to be. Ms. Fyke stated she would submit the grading plan, document showing where original fence was, photos and grant deed.

Ms. Caruso announced that documentation submitted by Ms. Fyke after the hearing would be available for public review.

Mr. Santos stated that the issues were regarding privacy and the Use Permit to allow the 7 foot fence. He noted and submitted letters from the Homeowners Board authorizing the fence and granting permission to build the fence. He added that the fence is a typical method of providing privacy between two neighbors. He noted that on the other neighbor's fence, the fence is 7 feet 4 inches high.

Ms. Caruso closed the public hearing.

Ms. Caruso stated that due to additional information being submitted the application would be taken under advisement until Monday, August 2, 2004.

The meeting was adjourned at 2:25 p.m.

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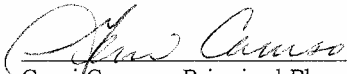
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Addendum:

Ms. Caruso approved the Use Permit on August 2, 2004 subject to the Conditions of Approval recommended by staff. No additional information was submitted after the hearing.

This decision is final unless appealed during the 15-day appeal period.

Minutes approved by:


Gerri Caruso, Principal Planner